



## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 230217-0046]

RIN 0648-BL48

#### **Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Pacific Coast Groundfish Fishery Management Plan; Amendment 30; 2023–24 Biennial Specifications and Management Measures; Correcting Amendment**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule; correcting amendment.

**SUMMARY:** NMFS is correcting the 2023–2024 harvest specifications and management measures for groundfish caught in the U.S. exclusive economic zone seaward of Washington, Oregon, and California published on December 16, 2022. These corrections are necessary so the regulations accurately implement the intent of the Pacific Fishery Management Council.

**DATES:** This correction is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. As of [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], the revision to § 660.360(c)(2)(i)(D) in amendatory instruction 18, of the final rule published December 11, 2020, at 85 FR 79880, is withdrawn.

**ADDRESSES:** This rule is accessible at the Office of the Federal Register website at <https://www.federalregister.gov>. Background information and documents are available at the NMFS West Coast Region website at <https://www.fisheries.noaa.gov/action/amendment-30-pacific-coast-groundfish-fishery->

*management-plan-2023-2024-harvest* and the Pacific Fishery Management Council's website at <http://www.pcouncil.org/>.

**FOR FURTHER INFORMATION CONTACT:** Brian Hooper, Fishery Management Specialist, at 206-526-6117 or [brian.hooper@noaa.gov](mailto:brian.hooper@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The Pacific Coast Groundfish Fishery Management Plan (PCGFMP) and its implementing regulations at title 50 in the Code of Federal Regulations (CFR), part 660, subparts C through G, regulate fishing for over 90 species of groundfish seaward of Washington, Oregon, and California. The Pacific Fishery Management Council (Council) develops groundfish harvest specifications and management measures for 2 year periods (*i.e.*, a biennium). NMFS published the final rule to implement harvest specifications and management measures for the 2023-2024 biennium for most species managed under the PCGFMP on December 16, 2022 (87 FR 77007). That final rule was effective January 1, 2023. After publication of the final rule, NMFS noted the need for corrections to accurately implement the intent of the Council.

### **Corrections**

The final rule inadvertently omitted clarifications regarding declaration codes for non-bottom contact hook and line gear for groundfish (*e.g.*, troll, jig gear, rod and reel gear) (declaration code 35), open access non-bottom contact stationary vertical jig gear (declaration code 36) and open access non-bottom contact troll gear (declaration code 37). The final rule implementing requirements for a Federal non-trawl logbook (87 FR 59724, October 3, 2022) revised and added declaration codes to ensure codes better aligned with the gear profiles described in the electronic non-trawl logbook application. The final rule implementing harvest specifications and management measures for the 2023–2024 biennium (87 FR 77007, December 16, 2022) allowed for vessels in the directed open access fishery targeting groundfish to operate inside the non-trawl Rockfish Conservation Area (NT-RCA) from 46°16' N lat. to the U.S./Mexico border with non-

bottom contact hook-and-line gear only. The final rule inadvertently did not add clarifying language to the declaration codes to indicate which codes could be used to fish inside the NT-RCA. This correcting amendment revises § 660.13(d)(4)(iv)(A)(27) through (29) to clarify that declaration code 35 may be used only outside the NT-RCA, and declaration codes 36 and 37 may be used inside and outside of the NT-RCA. After the final rule was published, NMFS received questions on which declaration code applies when fishing inside or outside the NT-RCA. This non-substantive clarification is consistent with the intent described in the preamble of the final rule. It provides needed clarity around the requirements for non-trawl RCA access implemented in the final rule.

On page 77016 of the final rule, paragraph (o)(219) mistakenly re-published the existing text at that time instead of revised text. On page 77020 of the final rule, paragraph (q)(4) also mistakenly re-published the existing text at that time instead of revised text. The need for the intended revisions was described on page 77013 of the final rule in the section “Changes from the Proposed Rule” and would move two boundary line waypoints from locations outside the Exclusive Economic Zone (EEZ) to inside the EEZ. However, the revisions were mistakenly omitted in the regulatory text. This correcting amendment revises § 660.71(o)(219) and § 660.74(q)(4), consistent with the final rule.

On page 77020 of the final rule, paragraph (p)(7) inadvertently omitted an “and” at the end of the subparagraph, as is the convention in these regulations. Adding “and” to the end of this paragraph is an administrative change for clarity. This correcting amendment adds the word “and” to § 660.74(p)(7).

The final rule mistakenly omitted lingcod south of 40°10' N lat. from the list of Individual Fishing Quota species allocated through the biennial specifications and management measures process. This correcting amendment revises the list at § 660.140 (c)(3)(iv) to include lingcod south of 40°10' N lat. consistent with the intentions

described in the preamble of the final rule and Section 6.3.2 of the PCGFMP, and alphabetizes the list for clarity.

This correcting amendment revises Table 1c and Table 2c to § 660, subpart C to address formatting errors and increase clarity for the public regarding the allocations for sablefish north of 36° N lat.

At its June 2022 meeting, the Council adopted a management measure allowing directed open access fishery vessels to fish inside and outside of the non-trawl RCA on the same trip but those vessels can only carry one type of legal non-bottom contact hook-and-line gear on-board the vessel when fishing occurs in the NT-RCA; no other gear type may be on deck vessel or stowed. These provisions were adopted by the Council based on recommendations from the Groundfish Management Team (GMT) in its June 2022 Report (Agenda Item f.6.a, Supplemental GMT Report 3). The section of the GMT report on this management measure refers to a June 2022 NMFS report (Agenda Item f.6.a, NMFS Report 1) which describes the management measure exactly as it is being implemented in this correcting amendment. Therefore, it was the clear intent of the Council to adopt this management measure as it is being implemented in this rule. The preamble to the proposed rule (87 FR 62676, October 14, 2022), in Section III.J, specifically discusses the management measure that the Council adopted as being part of the regulations implemented through the proposed rule.. However, NMFS inadvertently omitted these provisions from the proposed regulatory text and therefore the management measure was mistakenly not included in the final rule. This correcting amendment, which adds these provisions at § 660.330(b)(3), is necessary to ensure the regulations are consistent with the intent of the Council and the expectation of the public.

The final rule defined legal non-bottom contact hook-and-line gear to include stationary vertical jig gear “attached to the vessel.” This management measure was adopted by the Council based on recommendations from the GMT in its June 2022

Report (Agenda Item f.6.a, Supplemental GMT Report 3). The section of the GMT report on this management measure refers to a June 2022 NMFS report (Agenda Item f.6.a, NMFS Report 1) which includes the phrase “attached to the vessel.” However, the intent of the Council, as described in the June 2022 NMFS report and an April 2022 NMFS Report (Agenda Item F.4.a, Supplemental NMFS Report 1), was to allow the use of stationary jig gear inside the non-trawl RCA in gear configurations that had been tested through the Emley-Platt Exempted Fishing Permit, which included vessels fishing with stationary jig gear, not just jig gear attached to the vessel (stationary jig gear includes both gear attached to the vessel and gear fished by hand). After the publication of the final rule, fishermen raised concerns and confusion over whether this phrase could be interpreted as only allowing fishing with gear physically attached to the vessel and not allowing fishing with gear fished from the vessel but unattached. NMFS and NMFS Office of Law Enforcement reviewed the concerns of the fishermen and agree that this provision mistakenly would exclude jigging from a hand-held rod inside the non-trawl RCA. By including the phrase “attached to the vessel”, the final rule inadvertently imposed a restriction that was not intended by the Council. This phrase unintentionally adds a restriction that was not anticipated by the public, is causing confusion by fishery participants, and raises questions for how to enforce the provision. In order to correct this error, this correcting amendment corrects the definition at § 660.330(b)(3) by removing the phrase “attached to the vessel.” The final rule mistakenly deleted recreational fishery regulations seaward of California for the Rockfish, Cabezon, and Greenling (RCG) complex from the CFR due to a technical error in the amendatory instruction. The mistaken amendatory instruction revised paragraph (c)(3)(ii) but inadvertently deleted all the subparagraphs within (c)(3)(ii), including the revised subparagraphs that were included in the final rule. This correcting amendment reinstates all subparagraphs within § 660.360 (c)(3)(ii), including those that were revised in the

final rule, to make the regulations for the RCG complex consistent with those published in the proposed rule and recommended by the Council.

### **Classification**

NMFS is issuing this rule pursuant to 304(b) of the Magnuson–Stevens Fishery Conservation and Management Act (MSA). The NMFS Assistant Administrator for Fisheries (AA) has determined that this final rule is consistent with the PCGFMP and other applicable law.

Pursuant to 5 U.S.C. 553(b)(B), the AA finds there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be unnecessary and contrary to public interest in clear and accurate regulations. This action corrects inadvertent errors and makes necessary clarifications for to the December 16, 2022 final rule (87 FR 77007). Expeditious correction of the errors and clarification is necessary to prevent confusion among participants in the fishery, as the fishery has already begun. In addition, notice and comment is unnecessary because this notice makes only minor changes to correct inadvertent errors and make minor clarifications related to the December 16, 2022 final rule (87 FR 77007). These corrections will not affect the results of analyses conducted to support management decisions in the Pacific Coast groundfish fishery. These corrections are consistent with the Council’s intent for regulations, and the public expects the regulations to be written as in the correction. No change in operating practices in the fishery is required.

Similarly, the AA has determined good cause exists to waive the 30-day delay in effectiveness pursuant to 5 U.S.C. 553(d). The changes in this action should be effective immediately to prevent further confusion among participants in the fishery. This notice makes only minor corrections to the final rule which was effective January 1, 2023. Delaying effectiveness of these corrections would result in conflicts in the regulations and confusion among fishery participants.

Because prior notice and an opportunity for public comment are not required to be provided for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are not applicable. Accordingly, no Regulatory Flexibility Analysis is required for this rule and none has been prepared.

This final rule is not significant under Executive Order 12866.

This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

**List of Subjects in 50 CFR Part 660**

Fisheries and Fishing.

Dated: February 21, 2023.

---

Samuel D. Rauch, III

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is corrected by making the following amendments:

**PART 660—FISHERIES OFF WEST COAST STATES**

1. The authority citation for part 660 continues to read as follows:

**Authority:** 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 773 *et seq.*, and 16 U.S.C. 7001 *et seq.*

2. In § 660.13, revise paragraphs (d)(4)(iv)(A)(27) through (29) to read as follows:

**§ 660.13 Recordkeeping and reporting.**

\* \* \* \* \*

(d) \* \* \*

(4) \* \* \*

(iv) \* \* \*

(A) \* \* \*

(27) Open access non-bottom contact hook and line gear for groundfish (*e.g.*, troll, jig gear, rod & reel gear) (outside the non-trawl RCA only) (declaration code 35);

(28) Open access non-bottom contact stationary vertical jig gear (allowed inside or outside the non-trawl RCA) (declaration code 36);

(29) Open access non-bottom contact troll gear (allowed inside or outside the non-trawl RCA) (declaration code 37);

\* \* \* \* \*

3. In § 660.71, revise paragraph (o)(219) as follows:

**§ 660.71 Latitude/longitude coordinates defining the 10-fm (18-m) through 40-fm (73-m) depth contours.**

\* \* \* \* \*

(o) \* \* \*



\* \* \* \* \*

(219) 32°33.33' N. lat., 117°16.45' W. long.;

\* \* \* \* \*

4. In § 660.74, revise paragraphs (p)(7) and (q)(4) to read as follows:

**§ 660.74 Latitude/longitude coordinates defining the 180 fm (329 m) through 250 fm (457 m) depth contours.**

\* \* \* \* \*

(p) \* \* \*

\* \* \* \* \*

(7) 33°25.79' N. lat., 118°02.25' W. long.; and

\* \* \* \* \*

(q) \* \* \*

\* \* \* \* \*

(4) 32°37.14' N. lat., 117°44.94' W. long.;

\* \* \* \* \*

5. Revise Table 1c to part 660, subpart C, to read as follows:

**Table 1c. to Part 660, Subpart C - Sablefish North of 36° N. lat. Allocations, 2023 (Weight in Metric Tons)**

Year	ACL	Set-asides		Recreational Estimate	EFP	Commercial HG	Limited Entry HG		Open Access HG	
		Tribal <sup>a/</sup>	Research				Percent	mt	Percent	mt <sup>b/</sup>
2023	8,486	849	30.7	6	1	7,600	90.6	6,885	9.4	714
Year	LE All	Limited Entry Trawl <sup>c/</sup>				Limited Entry Fixed Gear <sup>d/</sup>				
		All Trawl	At-sea Whiting	Shorebased IFQ		All FG	Primary		DTL	

2023	6,885	3,994	100	3,893.5	2,892	2,458	434
<p>a/ The tribal allocation is further reduced by 1.7 percent for discard mortality resulting in 834.6 mt in 2023.</p> <p>b/ The open access HG is taken by the incidental OA fishery and the directed OA fishery.</p> <p>c/ The trawl allocation is 58 percent of the limited entry HG.</p> <p>d/ The limited entry fixed gear allocation is 42 percent of the limited entry HG.</p>							

6. Revise Table 2c to Part 660, Subpart C, to read as follows:

**Table 2c. to Part 660, Subpart C - Sablefish North of 36° N. lat. Allocations, 2024 and Beyond (Weights in Metric Tons)**

		Set-asides		Recreational Estimate	EFP	Commercial HG	Limited Entry HG		Open Access HG	
Year	ACL	Tribal <sup>a/</sup>	Research				Percent	mt	Percent	mt <sup>b/</sup>
2024	7,780	778	30.7	6	1	6,964	90.6	6,309	9.4	665
		Limited Entry Trawl <sup>c/</sup>				Limited Entry Fixed Gear <sup>d/</sup>				
Year	LE All	All Trawl	At-sea Whiting	Shorebased IFQ	All FG	Primary	DTL			
2024	6,309	3,659	100	3,559	2,650	2,252	397			
a/ The tribal allocation is further reduced by 1.7 percent for discard mortality resulting in 764.8 mt in 2024.										
b/ The open access HG is taken by the incidental OA fishery and the directed OA fishery.										
c/ The trawl allocation is 58 percent of the limited entry HG										
d/ The limited entry fixed gear allocation is 42 percent of the limited entry HG										

7. In § 660.140, revise paragraph (c)(3)(iv) to read as follows:

**§ 660.140 Shorebased IFQ Program.**

\* \* \* \* \*

(c) \* \* \*

(3) \* \* \*

(iv) The remaining IFQ species (bocaccio, canary rockfish, cowcod, darkblotched rockfish, lingcod S. of 40°10' N. lat., minor shelf rockfish N. of 40°10' N. lat., minor shelf rockfish S. of 40°10' N. lat., and minor slope rockfish S. of 40°10' N. lat., POP, widow rockfish, and yelloweye rockfish) are allocated through the biennial specifications and management measures process minus any set-asides for the mothership and C/P sectors for that species.

\* \* \* \* \*

8. In § 660.330, revise paragraph (b)(3) introductory text to read as follows:

**§ 660.330 Open access fishery - management measures.**

\* \* \* \* \*

(b) \* \* \*

(3) *Non-trawl RCA gear.* Inside the non-trawl RCA, only legal non-bottom contact hook-and-line gear configurations may be used for target fishing for groundfish by vessels that participate in the directed open access sector as defined at § 660.11. On a fishing trip where any fishing will occur inside the non-trawl RCA, only one type of legal non-bottom contact gear may be carried on board, and no other fishing gear of any type may be carried on board or stowed during that trip. The vessel may fish inside and outside the non-trawl RCA on the same fishing trip, provided a valid declaration report as required at § 660.13(d) has been filed with NMFS OLE. Legal non-bottom contact hook-and-line gear means stationary vertical jig gear not anchored to the bottom, and

groundfish troll gear, subject to the specifications in paragraphs (b)(3)(i) and (ii) of this section.

\* \* \* \* \*

9. In § 660.360, revise paragraph (c)(3)(ii) to read as follows:

**§ 660.360 Recreational fishery—management measures.**

\* \* \* \* \*

(c) \* \* \*

(3) \* \* \*

(ii) *RCG complex*. The California rockfish, cabezon, greenling complex (RCG Complex) includes all rockfish, kelp greenling, rock greenling, and cabezon. This category does not include California scorpionfish, also known as “sculpin”.

(A) *Seasons*. When recreational fishing for the RCG complex is open, it is permitted only outside of the recreational RCAs described in paragraph (c)(3)(i) of this section.

(1) Between 42° N lat. (California/Oregon border) and 40°10' N lat. (North Management Area), recreational fishing for the RCG complex is open from May 15 through October 15 (*i.e.*, recreational fishing for the RCG complex is closed from January 1 through May 14, and October 16 through December 31).

(2) Between 40°10' N lat. and 38°57.50' N lat. (Mendocino Management Area), recreational fishing for the RCG Complex is open from May 15 through December 31 (*i.e.*, recreational fishing for the RCG complex is closed from January 1 through May 14).

(3) Between 38°57.50' N lat. and 37°11' N lat. (San Francisco Management Area), recreational fishing for the RCG complex is open from May 15 through December 31 (*i.e.*, recreational fishing for the RCG complex is closed from January 1 through May 14).

(4) Between 37°11' N lat. and 34°27' N lat. (Central Management Area), recreational fishing for the RCG complex is open from May 1 through December 31 (*i.e.*, recreational fishing for the RCG complex is closed from January 1 through April 30).

(5) South of 34°27' N lat. (Southern Management Area), recreational fishing for the RCG Complex is open from April 1 through December 31 (*i.e.*, recreational fishing for the RCG complex is closed from January 1 through March 31).

(B) *Bag limits, hook limits.* In times and areas when the recreational season for the RCG Complex is open, there is a limit of 2 hooks and 1 line when fishing for the RCG complex. The bag limit is 10 RCG Complex fish per day coastwide, with a sub-bag limit of 4 fish for vermilion rockfish, 1 fish for quillback rockfish, and 1 fish for copper rockfish. These sub-bag limits count towards the bag limit for the RCG Complex and are not in addition to that limit. Retention of yelloweye rockfish, bronzespotted rockfish, and cowcod is prohibited. Multi-day limits are authorized by a valid permit issued by California and must not exceed the daily limit multiplied by the value of days in the fishing trip.

(C) *Size limits.* The following size limits apply: cabezon may be no smaller than 15 in (38 cm) total length; and kelp and other greenling may be no smaller than 12 in (30 cm) total length.

(D) *Dressing/filleting.* Cabezon, kelp greenling, and rock greenling taken in the recreational fishery may not be filleted at sea. Rockfish skin may not be removed when filleting or otherwise dressing rockfish taken in the recreational fishery.

\* \* \* \* \*